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FILED 04 JUL 21 05 34 USDC-OR

Attorneys for Defendant Southwest Distributing Co. dba SWD Urethane Company

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

**STEVEN ROBERT OLEA,**

Plaintiff,

v.

**SOUTHWEST DISTRIBUTING CO.,** an active foreign (State of Arizona) corporation, also doing business under the name of **SWD URETHANE COMPANY; STEVEN J. PERKINS**, individually and in his official capacity as President of **SOUTHWEST DISTRIBUTING CO.**; and **STEVEN HURD**, individually and in his official capacity as National Sales Manager of Southwest Distributing Co.,

Defendants.

Case No. **'04-987 KI**

**NOTICE OF REMOVAL**

1. This action is presently pending in the Circuit Court of the State of Oregon for the County of Multnomah.
2. The undersigned presently represents SWD Urethane Company.
3. The named defendant Southwest Distributing Co. dba SWD Urethane Company is incorporated in Arizona with its principal place of business in Mesa, Arizona.
4. The named defendant Steven J. Perkins is a resident of the State of Arizona.
5. The named defendant Steven Hurd is a resident of the State of Arizona.

17594  
1 - NOTICE OF REMOVAL

SATHER, BYERLY & HOLLOWAY, LLP  
621 SW MORRISON, SUITE 600  
PORTLAND, OR 97205  
PHONE (503) 225-5858 FAX (503) 721-9272

6. Plaintiff's Complaint seeks economic damages in the amount of \$830,000 and noneconomic damages in the amount of \$1,000,000, and intends to seek punitive damages.

7. In this civil action between citizens of different states, the matter in controversy exceeds the sum or value of \$75,000, and the District Court of Oregon has original jurisdiction pursuant to 28 USC §1332.

8. This action is removable under 28 USC §1332.

9. Pursuant to 28 USC §1446, a copy of all process, pleadings and orders served on defendant are attached as Exhibit A.

WHEREFORE, defendant gives notice of the removal of this action from the Circuit Court of the State of Oregon, County of Multnomah, to this court under 28 USC §1332 and §1441.

DATED this 21<sup>st</sup> day of July 2004.

SATHER, BYERLY & HOLLOWAY, LLP



Krishna Balasubramani

OSB No. 94243

(503) 412-3104

Fax (503) 721-9272

[kbalas@sbhlegal.com](mailto:kbalas@sbhlegal.com)

Attorney for Defendant

### CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of July 2004, I filed an original and one copy of the foregoing **NOTICE OF REMOVAL** by messenger with the following:

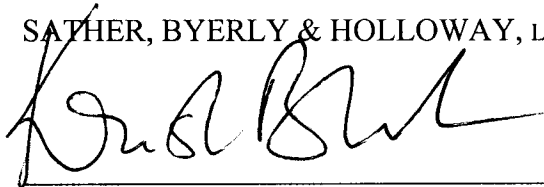
Clerk of Court  
United States District Court  
District Court of Oregon  
1000 SW Third Avenue  
Portland, OR 97204

I also hereby certify that on the 21st day of July 2004 I served a true copy of the foregoing **NOTICE OF REMOVAL** by messenger on the following:

Michael A. Gilbertson  
Ransom, Gilbertson, Martin & Ratliff, LLP  
522 SW Fifth Ave., Suite 1390  
Portland, OR 97204

*Attorney for Plaintiff*

SATHER, BYERLY & HOLLOWAY, LLP



---

Krishna Balasubramani  
OSB No. 94243  
(503) 412-3104  
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[kbalas@sbhlegal.com](mailto:kbalas@sbhlegal.com)  
Attorney for Defendant

## In the Circuit Court of the State of Oregon

For the County of Multnomah

STEVEN ROBERT OLEA,

Plaintiff(s),

0406-05969

Case No. \_\_\_\_\_

SUMMONS

vs.  
SOUTHWEST DISTRIBUTING CO., an active  
foreign (State of Arizona) corporation,  
also doing business under the name of  
SWD URETHANE COMPANY, et al  
(Please see Attachment A to this Summons),

Defendant(s).

(1) SOUTHWEST DISTRIBUTING CO.

(2) STEVEN J. PERKINS ✓

To W.A.S., Inc., Registered Agent

(3) STEVEN HURD

4201 North 24th Street, Suite 100

222 South Date Street

Phoenix, Arizona 85016

Mesa, Arizona 85201,

Defendant <sup>S</sup>

You are hereby required to appear and defend the complaint filed against you in the above entitled action within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, for want thereof, plaintiff(s) will apply to the court for the relief demanded in the complaint. RANSOM, GILBERTSON, MARTIN & RATLIFF, L.L.P.

## NOTICE TO THE DEFENDANT: READ THESE PAPERS CAREFULLY!

You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal paper called a "motion" or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff's attorney or, if the plaintiff does not have an attorney, proof of service upon the plaintiff.

If you have any questions, you should see an attorney immediately. If you need help in finding an attorney, you may call the Oregon State Bar's Lawyer Referral Service at (503) 684-3763 or toll-free in Oregon at (800) 452-7636.

SIGNATURE OF ATTORNEY / AUTHOR FOR PLAINTIFF

Michael A. Gilbertson,

Hollis C. Ransom OSB No. 58078

OSB No. 89247

ATTORNEY'S / AUTHOR'S NAME (TYPED OR PRINTED)

Suite 1390 Yeon Bldg., 522 SW 5th Ave.

BAR NO. (IF ANY)

ADDRESS

Portland, Oregon 97204

503/226.3664

CITY

STATE

ZIP

PHONE

TRIAL ATTORNEY IF OTHER THAN ABOVE (TYPED OR PRINTED)

BAR NO.

STATE OF OREGON, County of Multnomah

) ss.

I, the undersigned attorney of record for the plaintiff, certify that the foregoing is an exact and complete copy of the original summons in the above entitled action.

HOLLIS C. RANSOM, OSB No. 58078

for Michael A. Gilbertson

Michael A. Gilbertson, OSB No. 89247

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby directed to serve a true copy of this summons, together with a true copy of the complaint mentioned therein, upon the individual(s) or other legal entity(ies) to whom or which this summons is directed, and to make your proof of service on the reverse hereof or upon a separate similar document which you shall attach hereto.

RANSOM, GILBERTSON, MARTIN &amp; RATLIFF, L.L.P.

MICHAEL A. GILBERTSON, OSB No. 89247

Attorneys for Plaintiff

503. 226.3664

EXHIBIT A  
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Portland, OR 97204

EL

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

STEVEN ROBERT OLEA,

Plaintiff,

v.

**SOUTHWEST DISTRIBUTING CO.**

an active foreign (State of Arizona)

corporation, also doing business

under the name of **SWD URETHANE**

**COMPANY; STEVEN J. PERKINS,**

individually and in his official capacity

as President of **SOUTHWEST**

**DISTRIBUTING CO., and STEVEN**

**HURD,** individually and in his official

capacity as National Sales Manager of

Southwest Distributing Co.,

Defendants.

Case Number 0406-05969

{ Personal Injuries, Negligence,

Negligence *Per Se*, Employer

Liability Law - Chemical Exposure;

Property Damages }

**ATTACHMENT A**  
to Summons

**CASE CAPTION**

Page

1. ATTACHMENT A to Summons - Case Caption

Ransom, Gilbertson, Martin & Ratliff, LLP  
Suite 1390 Yoon Building  
522 SW 5th Avenue  
Portland, OR 97204  
503/226-3664 Fax, 503/525-0761

TRUE COPY

## IN THE CIRCUIT COURT OF THE STATE OF OREGON

## FOR THE COUNTY OF MULTNOMAH

0406-05969

STEVEN ROBERT OLEA,

Case Number

Plaintiff,

PLAINTIFF'S COMPLAINT

v.

Personal Injuries, Negligence,  
Negligence *Per Se*, Employer Liability  
Law  
Chemical Exposure; Property Damage

**SOUTHWEST DISTRIBUTING CO.**  
an active foreign (State of Arizona)  
corporation, also doing business  
under the name of **SWD URETHANE**  
**COMPANY**; **STEVEN J. PERKINS**,  
individually and in his official capacity  
as President of **SOUTHWEST**  
**DISTRIBUTING CO.**, and **STEVEN**  
**HURD**, individually and in his official  
capacity as National Sales Manager of  
Southwest Distributing Co.,

Claims Not Subject to Mandatory  
Arbitration - Claims Exceed \$50,000.00

Request for Trial by Jury

Defendants.

For his claims for relief against the Defendants, Plaintiff, Steven Robert Olea, alleges as follows:

## FIRST CLAIM FOR RELIEF

## 1.

A. At all material times, Defendant Southwest Distributing Co. was an active foreign business corporation, and currently is an active foreign corporation, that was organized and incorporated, under the laws of the State of Arizona on May 5, 1972, and has been actively operating and doing business under the assumed business trade name of **SWD Urethane Company**.

Page

## 1. PLAINTIFF'S COMPLAINT

Steven R. Olea v. Southwest Distributing Co., dba SWD Urethane Company, et al

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Suite 1390 Ycon Building  
522 SW 5th Avenue  
Portland, OR 97204  
503/ 226-3664; Fax: 503/ 525 0761

1 April 9, 2001. Plaintiff's employment was involuntarily terminated by Defendant Southwest  
2 Distributing Co. on September 25, 2002.

3 7.

4 As Northwest Technical Sales Manager, Plaintiff sold chemical systems and chemical  
5 equipment to customers, such as molders, for processing chemicals, and Plaintiff also provided  
6 technical assistance relating to development of new products by the molders who were customers of  
7 Defendant Southwest Distributing Co.

8 8.

9 While employed as Technical Sales Manager for Defendant Southwest Distributing Co., the  
10 majority of Plaintiff's customers resided in the State of Oregon or did business in Oregon, and the  
11 majority of Plaintiff's sales on behalf of Defendant Southwest Distributing Co. occurred in the State  
12 of Oregon, and the majority of Plaintiff's time was spent in Oregon.  
13

14 9.

15 At all material times herein, Defendant Steven J. Perkins was President of Defendant  
16 Southwest Distributing Co.

17 10.

18 At all material times herein, Defendant Steven Hurd was Plaintiff's supervisor and National  
19 Sales Manager for Defendant Southwest Distributing Co.

20 11.

21 Plaintiff's employment was involuntarily terminated on September 25, 2002, after Plaintiff  
22 sustained serious, permanent work-related injuries when he was over-exposed to hazardous chemicals  
23 on July 9, 2002 and July 12, 2002, after being ordered to work around those chemicals by Defendants  
24 without appropriate safety equipment.  
25  
26

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### 3. PLAINTIFF'S COMPLAINT

Steven R. Olea v. Southwest Distributing Co., dba SWD Urethane Company, et al

Ransom, Gilbertson, Martin & Ratliff, LLP  
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503/ 226-3664; Fax: 503/ 525-0761

1 B. At all material times, the corporate offices of Defendant Southwest Distributing Co.,  
 2 SWD Urethane Company were located at the following physical address: 222 South Date Street.  
 3 Mesa, Arizona 85201.

4 2.

5 At all times material herein, Defendant Southwest Distributing Co., SWD Urethane  
 6 Company, manufactured, transferred, and sold polyurethane related chemical systems. Polyurethane  
 7 related products developed, transferred and sold by Southwest Distributing Co. included, but were  
 8 not limited to, mattress foam, insulation, and coatings.

9 3.

10 A. Polyurethane components and compounds, polyurethane related chemicals, contain a  
 11 significant amount of lead catalyst.

12 B. Isocyanate, also known as diisocyanate, contains extremely dangerous sensitization  
 13 properties that subsequently induced undue sensitivity in Plaintiff to the diisocyanate substance.

14 4.

15 At all times material herein, Defendants Southwest Distributing Co. and SWD Urethane  
 16 Company have been actively conducting business in the State of Oregon, although at all material  
 17 times Defendant Southwest Distribution Co. was not licensed, authorized, or registered by and  
 18 through the offices of the State of Oregon Corporation Commissioner, Department of the State of  
 19 Oregon Secretary of State, to conduct, transact, and perform business within Oregon.

20 5.

21 At all material times, Plaintiff, Steven Robert Olea, was a resident of the City of Aloha,  
 22 County of Washington, State of Oregon.

23 6.

24 Plaintiff was hired by Defendant Southwest Distributing Co. as Technical Sales Manager on  
 25

26 2. PLAINTIFF'S COMPLAINT

Page Steven R. Olea v. Southwest Distributing Co., dba SWD Urethane Company, et al

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12.

**Over-Exposure to Unknown Concentrations of Hazardous Chemicals on July 9, 2002**

Plaintiff was over-exposed to hazardous chemicals on July 9, 2002 when Defendants ordered Plaintiff to investigate a spill of hazardous chemicals at the Honeywell International, Inc. facility in Phoenix, Arizona. By ordering Plaintiff to investigate that spill, the Defendants, and each of them, recklessly and negligently endangered Plaintiff's health and life, by ordering and allowing Plaintiff to work in a small unventilated area (approximately 15 feet by 30 feet by 10 feet) containing hazardous MDI, also known as diisocyanate, without protective clothing and fresh air purifying respiratory protection with a self contained breathing apparatus.

13.

**Over-Exposure to Unknown Concentrations of Hazardous Chemicals on July 12, 2002**

Plaintiff was also ordered by Defendants to spray half pound spa foam materials for product development. That task was performed at the SWD Urethane Co. polyurethane plant, and involved high pressure, intense spraying of unknown concentrations of polyurethane components and compounds (polyurethane related chemicals) and polyurethane foam from 6:00 a.m. to 6:00 p.m. on July 12, 2002 within a confined area with inadequate ventilation, located at the warehouse of Defendant Southwest Distributing Co.'s industrial plant complex. The physical address of the plant complex was 539 South Drew Street, Mesa, Arizona. The unknown concentration of the hazardous chemicals most likely exceeded permissible exposure limits.

14.

Plaintiff was not provided protective gear (clothing, garments) or an adequate clean air purifying respirator during the high pressure, forceful spraying of the polyurethane foam (polyurethane components and compounds) for 12 hours on July 12, 2002, within a confined area where air became contaminated by unknown concentrations of hazardous polyurethane related

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**4. PLAINTIFF'S COMPLAINT**

Steven R. Olca v. Southwest Distributing Co., dba SWD Urethane Company, et al

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1 chemical substances, including isocyanates and hazardous gas or vapor substances in room  
 2 temperatures of 110 degrees to 115 degrees

3 15.

4 At the insistence of Defendants, Plaintiff was ordered to pour and hand-mix concentrated  
 5 hazardous waste substances, developed from the foregoing identified intense high-pressure spraying,  
 6 in five gallon pails, or buckets, on July 12, 2002. These substances were hand-mixed with a stick in  
 7 buckets to solidify the waste. The concentration of these waste products consisted of the following  
 8 identified basic components: isocyanate/ diisocyanate (that contains extremely dangerous  
 9 sensitization properties that subsequently induced undue sensitivity in Plaintiff to the substance),  
 10 polyol, methylene chloride, lead catalyst, and surfactant. After hand-mixing the hazardous chemical  
 11 wastes solidification occurred very quickly. This process created air contaminate toxic fumes and  
 12 mist that drifted around Plaintiff and the area within which Plaintiff was spraying. The hardened  
 13 hazardous waste substances were subsequently disposed in a trash receptacle (dumpster) by  
 14 Defendant Southwest Distributing Co. This hand-mixing of toxic substances, the solidification  
 15 process, occurred during approximately the last 20 minutes that Plaintiff worked on July 12, 2002.  
 16 This process over-exposed Plaintiff to highly harmful, concentrated and thick contaminate chemical  
 17 fumes directly onto Plaintiff's face in the confined area within which Plaintiff was spraying. This  
 18 process causes temperatures between 180 degrees and 250 degrees in the solutions.

19 16.

20 At all material times herein, Defendants recklessly endangered Plaintiff's health and life on  
 21 the warehouse premises of Southwest Distributing Co. on July 12, 2002, when they ignored the  
 22 obvious and clear hazardous and unsafe conditions to which Plaintiff was exposed during the spraying  
 23 and hand-mixing of hazardous chemical wastes referred to hereinabove.

24 //  
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# 5. PLAINTIFF'S COMPLAINT

Steven R. Olea v. Southwest Distributing Co., dba SWD Urethane Company, et al

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17.

Plaintiff's over-exposure to polyurethane related chemicals on July 9, 2002 and on July 12, 2002, and Plaintiff's injuries resulting from that extreme exposure were due to the willful negligence, carelessness, and recklessness of the Defendants in one or more of the following particulars:

A. In failing to provide the proper and reasonable level of care necessary for Plaintiff's health and welfare when ordering Plaintiff to spray and mix polyurethane chemicals and compounds, causing injury and harm to Plaintiff.

B. In failing to test the level of air contaminants, and failing to provide Plaintiff with an approved fresh air respirator and protective equipment for protection against unknown concentrations of isocyanates and hazardous chemical substances or any other hazardous gas or vapor substances.

C. In not preventing the toxic, fumes and mist from the polyurethane related chemicals to drift within the confined area where Plaintiff was spraying and to remain within that area for a period of 12 hours, when Defendants, and each of them, were aware that exposure could cause harm to Plaintiff.

18.

A. As a reasonable foreseeable result of the negligence of the Defendants, Plaintiff was over-exposed to hazardous polyurethane compounds and components (polyurethane related chemicals), including diisocyanate, a toxin, referred to in the foregoing paragraphs, and Plaintiff has become permanently sensitized to polyurethane compounds and components, and has suffered the following injuries: (1) pulmonary dysfunction, respiratory illness; (2) reactive airway dysfunction / reactive airway disease (coughing and choking when blowing air from the mouth); (3) tightness of the chest; (4) intense burning of the eyes; (5) tissue damage to the eyes; (6) watery eyes - eyes filled with tears from physical irritation; (7) flushed feeling in the cheeks; (8) burning sensation in the throat; (9) burning sensation in the lungs; (10) diffuse muscular pain; (11) kidney pain, and renal

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## 6. PLAINTIFF'S COMPLAINT

Steven R. Olea v. Southwest Distributing Co., dba SWD Urethane Company, et al

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1 insufficiency; (12) conjunctivitis; (13) bronchitis; (14) shortness of breath; (15) difficulty breathing;  
 2 (16) extreme fatigue; (17) swelling of the bronchial tubes that restricted and reduced air flow; (18)  
 3 accelerated heart beat; (19) feelings of panic, caused, in part, by accelerated heart beat; (20) unusual  
 4 deep and rapid breathing (hyperventilation), causing excessive, harmful loss of carbon dioxide; (21)  
 5 abnormal accumulation of fluid in the lungs; (22) effusion; (23) weakening of the body muscles  
 6 caused by excessive fatigue and inability to exercise; (24) abnormal difficulty breathing in cold  
 7 weather, a frequent symptom of reactive airway disease; (25) mental pain.

8 B. Some or all of these injuries are permanent.

9 19.

#### 10 Economic Damages

#### 11 Reasonable and Necessary Medical Expenses

12 A. As a result of the foregoing identified injuries, Plaintiff has been required to obtain  
 13 reasonable and necessary services of medical doctors, a toxicologist and occupational health  
 14 professionals, and has incurred reasonable and necessary medical and health care expenses in the  
 15 amount not to exceed \$100,000.00, subject to determination and amendment at the time of trial.  
 16

17 B. As a result of the foregoing identified injuries, Plaintiff will incur future reasonable and  
 18 necessary medical and health care treatment in an amount not to exceed \$50,000.00, subject to  
 19 determination and amendment at the time of trial.

20 20.

#### 21 Economic Damages

#### 22 Loss of Income

23 A. Plaintiff has acquired a permanent impediment caused by Plaintiff's over-exposure to  
 24 polyurethane compounds and components at the Honeywell International, Inc. facility in Phoenix,  
 25 Arizona on July 9, 2002, and at the industrial complex of Defendant Southwest Distributing Co. on  
 26

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#### 7. PLAINTIFF'S COMPLAINT

Steven R. Olea v. Southwest Distributing Co., dba SWD Urethane Company, et al

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1 July 12, 2002. That impediment is the foregoing described serious allergic physical reaction, that has  
 2 resulted in economic damages sustained by Plaintiff through loss of income.

3 B. As a reasonable result of the foregoing identified permanent injuries suffered by  
 4 Plaintiff and caused by the Defendants' negligence, Plaintiff has been permanently denied the  
 5 opportunity to participate in a technical profession he has performed since approximately 1972, at the  
 6 age of 19, and Plaintiff's confidence in his proven abilities and accomplishments in the polyurethane  
 7 related chemicals industry and self-image of his professional reputation have been seriously  
 8 damaged.

9 C. As a direct and proximate result of the negligence of the Defendants, Plaintiff has lost  
 10 wages, and sustained loss of income, in the sum of \$180,000.00, and will continue to lose wages and  
 11 income in the future in the amount of \$500,000.00, subject to amendment at the time of trial.

12 21.

#### 13 Non-Economic Damages

14 As a further reasonable foreseeable result of his injuries, Plaintiff has experienced pain and  
 15 suffering, and curtailment of his normal daily activities, all to his non-economic damages in the sum  
 16 of \$1,000,000.00.

17 22

#### 18 Punitive, Exemplary Damages

19 A. The foregoing identified actions of Defendants Southwest Distributing Co., doing  
 20 business as SWD Urethane Company, and Steven J. Perkins, and Steven Hurd were reckless, willful,  
 21 wanton, and malicious, and violated interests of Plaintiff and society, and were of a kind which  
 22 punitive damages would deter this blameworthy conduct.

23 B. Plaintiff notices his intention to seek leave to amend his Complaint pursuant to Oregon  
 24 Revised Statute 31.725(2), to add a claim for punitive damages against Defendants.  
 25  
 26

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#### 8. PLAINTIFF'S COMPLAINT

Steven R. Olea v. Southwest Distributing Co., dba SWD Urethane Company, et al

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**SECOND CLAIM FOR RELIEF**

*Negligence Per Se, As a Matter of Law*

23

Plaintiff realleges paragraphs one through 22 of his First Claim for Relief.

24

The Defendants violated state and / or federal law, including the Code of Federal Regulations (CFR) (executive-agency regulations) and Oregon Administrative Rules (OAR), in one or more of the following particulars, causing Plaintiff to sustain the economic and non-economic damages identified and set out in Plaintiff's first claim for relief.

A. In failing to train employees in physical and health hazards of chemicals in the work area, in violation of 29 CFR 1910.1200(h)(2)(ii).

B. In failing to evaluate the work place where polyurethane compounds and components, polyurethane related chemicals, were sprayed to determine if any spaces within that area were permit-required confined spaces, in violation of 29 CFR 1910.146 ©)(1).

C. In failing to inform employees exposed to the chemicals, by posting danger signs or by any other equally effective means advising of the existence and location of the permit spaces and the danger posed by the permit spaces in violation of 29 CFR 1910.146(c)(2).

D. In failing to implement measures necessary to prevent unauthorized entry in an area containing hazardous chemicals in violation of 29 CFR 1910.146 (d)(1).

E. In failing to identify and evaluate the hazards of permit spaces before employees entered them, in violation of 29 CFR 1910.146(d)(2).

F. In failing to develop and implement the means, procedures, and practices necessary for safe permit space entry operations, in violation of 29 CFR 1910.146(d)(3)

G. In failing to ensure the material safety data sheets (MSDS) were readily accessible

Page 9. PLAINTIFF'S COMPLAINT

Steven R. Olea v. Southwest Distributing Co., dba SWD Urethane Company, et al

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1 during each work shift to employees when they are in their work areas in violation of 29 CFR  
2 1910.1200(g)(8).

3 H. In failing to fix work areas or work stations where hazardous, toxic, and/ or corrosive  
4 materials are handled, by providing eyewash fountains and/ or deluge showers immediately available  
5 for use, in violation of OAR 437.02-161(5)(a).

6 I. In failing to hold regular safety committee meetings at least once a month; in violation  
7 of OAR 437-40-47(2).  
8

9 J. In failing to post copies of the minutes the safety committee meetings, or make copies  
10 of those minutes available for all employees; in violation of OAR 437-40-047(5)(a).

11 K. In failing to make conveniently available a type of protector suitable for the intense  
12 spraying of hazardous, toxic chemicals that was performed by Plaintiff, in violation of 29 CFR  
13 1910.133(a)(1).  
14

### 15 THIRD CLAIM FOR RELIEF

16 Violation of the Employer Liability Law - ORS 654.305

17 Plaintiff realleges paragraphs one through 24 of his First and Second Claims for Relief.

18 25.

19 At all times material herein, Defendants violated provisions of the Employer Liability Law,  
20 ORS 654.305, in the following manner, causing Plaintiff to sustain the damages identified and set  
21 forth in Plaintiff's first claim for relief

22 A. Defendants retained the right to control and monitor the safety of the work place where  
23 Plaintiff was over-exposed to hazardous and carcinogenic polyurethane compounds and components  
24 (polyurethane related chemicals), and knowingly and willfully and negligently failed to control and  
25 monitor the safety of that work place.

26 B. Defendants failed to use every care, caution, and procedure with regard to safety when

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#### 10. PLAINTIFF'S COMPLAINT

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Plaintiff was exposed to the hazardous and carcinogenic chemicals and materials.

C. Defendants failed to adequately supervise work performed by its employees.

#### FOURTH CLAIM FOR RELIEF

##### Loss and Destruction of Plaintiff's Personal Property:

26.

Plaintiff realleges paragraphs one, two, and four, and paragraphs five through ten of his First Claim for Relief.

27.

A money judgment should be awarded against Defendants for the replacement value of the following identified personal equipment owned by Plaintiff during the period he was employed by Southwest Distributing Co. and discarded or destroyed by Defendants. Prior to the termination of Plaintiff's employment, this personal property was stored in the laboratory of Defendant Southwest Distributing Co.. The property was negligently broken, destroyed, or discarded by Defendants after Plaintiff's employment was terminated on September 25, 2002.

- A mold built, designed, engineered and used by Plaintiff through the assistance and technical knowledge provided by Polymer Development Laboratories in Orange, California) for the purpose of revolutionizing mold technology, mold making materials, mold designs, parting lines, line improvement, and elimination of flash (excess waste). The expense of a mold is one of the most expensive component of new product development, and Plaintiff used the mold for Defendant SWD Urethane Company's benefit by teaching SWD's technical personnel, including its sales and laboratory staff, the process of polyurethane mold making and by displaying new mold technology to the staff. Defendant Southwest Distributing Company discarded this mold in a dumpster. The replacement value for that mold in the current market is approximately \$35,000.00.

#### 11. PLAINTIFF'S COMPLAINT

Steven R. Olea v. Southwest Distributing Co., dba SWD Urethane Company, et al

Ransom, Gliberson, Martin & Ratliff, LLP  
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1 Plaintiff should be awarded a money judgment against Defendants for the sum of \$35,000.00 for the  
2 current replacement value of this mold. .

3       • A chopper motor for fiberglass with mounting bracket distributed by Binks-Polycraft, used  
4 by Plaintiff for the benefit of Defendant Southwest Distributing Co. to chop fiberglass into  
5 long continuous strands and quarter inch lengths for spraying into the polyurethane spray  
6 ptttern in a cured, dried, solid state to create stronger physical properties in the polyurethane.  
7 The replacement value of this chopper motor in the current market is \$2,700.00 This  
8 equipment was broken during the process of packaging and shipping the motor from  
9 Southwest Distributing Co. to Plaintiff

10 Plaintiff should be awarded a money judgment against Defendants for the sum of \$2,700.00 for the  
11 current replacement value of the Binks-Polycraft, chopper motor.  
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12. PLAINTIFF'S COMPLAINT

Steven R. Olea v. Southwest Distributing Co., dba SWD Urethane Company, et al

Ransom, Gilbertson, Martin & Ruliff, LLP  
Suite 1300 Yeon Building  
522 SW 5th Avenue  
Portland, OR 97204  
503/ 226-3664; Fax: 503/ 523 0761

1       **WHEREFORE**, Plaintiff prays for a judgment against the Defendants, and each of them, as  
 2 follows:

3       (1)     Economic Damages - Reasonable and Necessary Medical and Health Care Expenses:

4               A.   For a money judgment against Defendants in an amount not to exceed  
 5 \$100,000.00 for reasonable and necessary medical and health care expenses incurred by Plaintiff,  
 6 subject to determination and amendment at the time of trial, as alleged in Plaintiff's first, second, and  
 7 third claims for relief.

8               B.   For a money judgment against Defendants in an amount not to exceed  
 9 \$50,000.00, subject to determination and amendment at the time of trial, for reasonable and necessary  
 10 future medical and health care treatment, as alleged in Plaintiff's first, second and third claims for  
 11 relief.

12       (2)     Economic Damages - Loss of Past and Future Wages and Income:

13               A.   For a money judgment against the Defendants for the sum of \$180,000.00 for  
 14 Plaintiff's loss of past wages and income, as alleged in Plaintiff's first, second and third claims for  
 15 relief.

16               B.   For a money judgment against the Defendants for the sum of \$500,000.00 for  
 17 Plaintiff's loss of future wages and income, subject to amendment at the time of trial, as  
 18

19       (3)     Non-Economic Damages:

20               For a money judgment against the Defendants for the sum of One Million Dollars  
 21 (\$1,000,000.00) for pain and suffering sustained by Plaintiff and for curtailment of Plaintiff's normal  
 22 daily activities, as alleged in plaintiff's first, second, and third claims for relief.

23               alleged in Plaintiff's first, second and third claims for relief.

24       //  
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13. PLAINTIFF'S COMPLAINT

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 Portland, OR 97201  
 503/ 226-3664; Fax: 503/ 525-0761

(4) Economic Damages - Loss and Destruction of Plaintiff's Personal Property.

For a money judgment against Defendants for the sum of \$37,700.00 for the replacement value of personal equipment and property owned by Plaintiff and discarded, broken, and/ or destroyed by Defendants, as alleged in Plaintiff's fourth claim for relief.

(5) Costs and Disbursements:

For a money judgment against the Defendants for Plaintiff's costs and disbursements otherwise prescribed by statute and incurred herein.

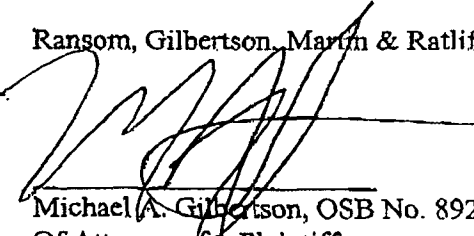
PLAINTIFF DEMANDS TRIAL BY JURY.

Date: June 9, 2004

Respectfully submitted,

Ransom, Gilbertson, Martin & Ratliff, L.L.P.

by:

  
Michael A. Gilbertson, OSB No. 89247  
Of Attorneys for Plaintiff

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14. PLAINTIFF'S COMPLAINT

Steven R. Olea v. Southwest Distributing Co., dba SWD Urethane Company, et al

Ransom, Gilbertson, Martin & Ratliff, LLP  
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522 SW 5th Avenue  
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